



# RULE-MAKING ORDER

**CR-103 (June 2004)**  
(Implements RCW 34.05.360)

**Agency:** Department of Social and Health Services, Children's Administration

☐ Permanent Rule  
☒ Emergency Rule

**Effective date of rule:**

☐ 31 days after filing.  
☐ Other (specify \_\_\_\_\_) (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Permanent Rules**

**Effective date of rule:**

**Emergency Rules**

☒ Immediately upon filing.  
☐ Later (specify \_\_\_\_\_)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

☐ Yes ☒ No If Yes, explain:

**Purpose:** This emergency rule:

- Changes WAC 388-148-0010 to include the definition of "missing child";
- Changes WAC 388-148-0120 by removing section 3 (e) "runaways" from the WAC;
- Creates new WAC 388-148-0123 to address the requirements of foster parents to report to the department and to law enforcement when a child goes missing (this includes runaways).

**Citation of existing rules affected by this order:**

Repealed: None  
Amended: WAC 388-148-0010 and 388-148-0120  
Suspended: None

**Statutory authority for adoption:** RCW 74.08.090, and 74.15.030; Chapter 74.13 RCW

**Other authority :**

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR \_\_\_\_\_ on \_\_\_\_\_ (date)  
Describe any changes other than editing from proposed to adopted version:

**EFFECTIVE DATE:**

8/25/06

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_ e-mail \_\_\_\_\_

**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Amending the current rules and adding a new rule brings the rule inline with policy by requiring foster parents to report within certain timeframes to the department and law enforcement when a child goes missing from their care. Without these rules, foster parents would not have consistent requirements and timeframes for reporting children missing from foster care, which could threaten the health and safety of children placed in foster care by delaying the search efforts of both law enforcement and the department. The department is working towards the adoption of the permanent rule. The proposed rule making notice (the CR-102) was filed on August 22, 2006 as WSR 06-17-155. The public hearing will be held on September 26, 2006.

**Date adopted:**

8/23/06

**NAME (TYPE OR PRINT)**

Andy Fernando

**SIGNATURE**

**TITLE**

Manager, Rules and Policies Assistance Unit

**CODE REVISER USE ONLY**

CODE REVISER'S OFFICE  
STATE OF WASHINGTON  
FILED

AUG 25 2006

TIME

WSR

942

06-18-020

AM  
PM

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted in the agency's own initiative:

New	___	Amended	___	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>1</u>	Amended	<u>2</u>	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	<u>1</u>	Amended	<u>2</u>	Repealed	___

AMENDATORY SECTION (Amending WSR 04-08-073, filed 4/5/04, effective 5/6/04)

**WAC 388-148-0010** What definitions do I need to know to understand this chapter? The following definitions are for the purpose of this chapter and are important to understand these rules:

**"Abuse or neglect"** means the injury, sexual abuse, sexual exploitation, negligent treatment or mistreatment of a child where the child's health, welfare and safety are harmed.

**"Agency"** is defined in RCW 74.15.020(1).

**"Assessment"** means the appraisal or evaluation of a child's physical, mental, social and/or emotional condition.

**"Capacity"** means the maximum number of children that a home or facility is licensed to care for at a given time.

**"Care provider"** means any licensed or certified person or organization or staff member of a licensed organization that provides twenty-four-hour care for children.

**"Case manager"** means the private agency employee who coordinates the planning efforts of all the persons working on behalf of a child. Case managers are responsible for implementing the child's case plan, assisting in achieving those goals, and assisting with day-to-day problem solving.

**"Certification"** means:

(1) Department approval of a person, home, or facility that does not legally need to be licensed, but wishes to have evidence that it meets the minimum licensing requirements; or

(2) Department licensing of a child-placing agency to certify that a foster home meets licensing requirements.

**"Children" or "youth,"** for this chapter, means individuals who are:

(1) Under eighteen years old, including expectant mothers under eighteen years old; or

(2) Up to twenty-one years of age and pursuing a high school, equivalent course of study (GED), or vocational program;

(3) Up to twenty-one years of age with developmental disabilities; or

(4) Up to twenty-one years of age if under the custody of the Washington state juvenile rehabilitation administration.

**"Child-placing agency"** means an agency licensed to place children for temporary care, continued care or adoption.

**"Crisis residential center (CRC)"** means an agency under contract with DSHS that provides temporary, protective care to children in a foster home, regular (semi-secure) or secure group setting.

**"Compliance agreement"** means a written licensing improvement plan to address deficiencies in specific skills, abilities or other issues of a fully licensed home or facility in order to maintain

and/or increase the safety and well-being of children in their care.

**"DCFS"** means the division of children and family services.

**"DDD"** means division of developmental disabilities.

**"Department"** means the department of social and health services (DSHS).

**"Developmental disability"** is a disability as defined in RCW 71A.10.020.

**"DLR"** means the division of licensed resources.

**"Firearms"** means guns or weapons, including but not limited to the following: BB guns, pellet guns, air rifles, stun guns, antique guns, bows and arrows, handguns, rifles, and shotguns.

**"Foster-adopt"** means placement of a child with a foster parent(s) who intends to adopt the child, if possible.

**"Foster home or foster family home"** means person(s) licensed to regularly provide care on a twenty-four-hour basis to one or more children in the person's home.

**"Full licensure"** means an entity meets the requirements established by the state for licensing or approved as meeting state minimum licensing requirements.

**"Group care facility for children"** means a location maintained and operated for a group of children on a twenty-four-hour basis.

**"Group receiving center"** or **"GRC"** means a facility providing the basic needs of food, shelter, and supervision for more than six children placed by the department, generally for thirty or fewer days. A group receiving center is considered a group care program and must comply with the group care facility licensing requirements.

**"Hearing"** means the administrative review process.

**"I"** refers to anyone who operates or owns a foster home, staffed residential home, and group facilities, including group homes, child-placing agencies, maternity homes, day treatment centers, and crisis residential centers.

**"Infant"** means a child under one year of age.

**"License"** means a permit issued by the department affirming that a home or facility meets the minimum licensing requirements.

**"Licensor"** means:

(1) A division of licensed resources (DLR) employee at DSHS who:

(a) Approves licenses or certifications for foster homes, group facilities, and child-placing agencies; and

(b) Monitors homes and facilities to ensure that they continue to meet minimum health and safety requirements.

(2) An employee of a child-placing agency who:

(a) Attests that foster homes supervised by the child-placing agency meets licensing requirements; and

(b) Monitors those foster homes to ensure they continue to meet the minimum licensing standards.

**"Maternity service"** as defined in RCW 74.15.020.

**"Medically fragile"** means the condition of a child who has a chronic illness or severe medical disabilities requiring regular nursing visits, extraordinary medical monitoring, or on-going



(other than routine) physician's care.

**"Missing child" means:**

(1) Any child up to eighteen years of age for whom Children's Administration (CA) has custody and control (not including children in dependency guardianship) and:

(a) The child's whereabouts are unknown; and/or

(b) The child has left care without the permission of the child's caregiver or CA.

(2) Children who are missing are categorized under one of the following definitions:

(a) "Taken from placement" means that a child's whereabouts are unknown, and it is believed that the child is being or has been concealed, detained or removed by another person from a court-ordered placement and the removal, concealment or detainment is in violation of the court order;

(b) "Absence not authorized, whereabouts unknown" means the child is not believed to have been taken from placement, did not have permission to leave the placement, and there has been no contact with the child and the whereabouts of the child is unknown; or

(c) "Absence not authorized, whereabouts known" means that a child has left his or her placement without permission and the social worker has some contact with the child or may periodically have information as to the whereabouts of the child.

**"Multidisciplinary teams (MDT)"** means groups formed to assist children who are considered at-risk youth or children in need of services, and their parents.

**"Nonambulatory"** means not able to walk or traverse a normal path to safety without the physical assistance of another individual.

**"Out-of-home placement"** means a child's placement in a home or facility other than the child's parent, guardian, or legal custodian.

**"Premises"** means a facility's buildings and adjoining grounds that are managed by a person or agency in charge.

**"Probationary license"** means a license issued as part of a disciplinary action to an individual or agency that has previously been issued a full license but is out of compliance with minimum licensing requirements and has entered into an agreement aimed at correcting deficiencies to minimum licensing requirements.

**"Psychotropic medication"** means a type of medicine that is prescribed to affect or alter thought processes, mood, sleep, or behavior. These include anti-psychotic, antidepressants and anti-anxiety medications.

**"Relative"** means a person who is related to the child as defined in RCW 74.15.020 (4)(a)(i), (ii), (iii), and (iv) only.

**"Respite"** means brief, temporary relief care provided to a child and his or her parents, legal guardians, or foster parents with the respite provider fulfilling some or all of the functions of the care-taking responsibilities of the parent, legal guardian, or foster parent.

**"Secure facilities"** means a crisis residential center that has locking doors and windows, or secured perimeters intended to

prevent children from leaving without permission.

**"Service plan"** means a description of the services to be provided or performed and who has responsibility to provide or perform the activities for a child or child's family.

**"Severe developmental disabilities"** means significant disabling, physical and/or mental condition(s) that cause a child to need external support for self-direction, self-support and social participation.

**"Social service staff"** means a clinician, program manager, case manager, consultant, or other staff person who is an employee of the agency or hired to develop and implement the child's individual service and treatment plans.

**"Staffed residential home"** means a licensed home providing twenty-four-hour care for six or fewer children or expectant mothers. The home may employ staff to care for children or expectant mothers. It may or may not be a family residence.

**"Standard precautions"** is a term relating to procedures designed to prevent transmission of bloodborne pathogens in health care and other settings. Under standard precautions, blood or other potentially infectious materials of all people should always be considered potentially infectious for HIV and other pathogens. Individuals should take appropriate precautions using personal protective equipment like gloves to prevent contact with blood or other bodily fluids.

**"Washington state patrol fire protection bureau"** or **"WSP/FPB"** means the state fire marshal.

**"We"** or **"our"** refers to the department of social and health services, including DLR licensors and DCFS social workers.

**"You"** refers to anyone who operates a foster home, staffed residential home, and group facilities, including group homes, maternity programs, day treatment programs, crisis residential centers, group receiving centers, and child-placing agencies.

AMENDATORY SECTION (Amending WSR 04-08-073, filed 4/5/04, effective 5/6/04)

**WAC 388-148-0120 What incidents involving children must I report?** (1) You or your staff must report the incidents contained in WAC 388-148-0120(2), as soon as possible and in no instance later than forty-eight hours to your local:

- (a) Children's administration intake staff, and
- (b) The child's social worker or case manager.
- (2) The incidents to be reported include:
  - (a) Any reasonable cause to believe that a child has suffered child abuse or neglect;
  - (b) Any violations of the licensing or certification requirements where the health and safety of a foster child is at risk and the violations are not corrected immediately;
  - (c) Death of a child;
  - (d) Any child's suicide attempt that results in injury

requiring medical treatment or hospitalization;

(e) Any use of physical restraint that is alleged improperly applied or excessive;

(f) Sexual contact between two or more children that is not considered typical play between preschool age children;

(g) Any disclosures of sexual or physical abuse by a child in care;

(h) Physical assaults between two or more children that result in injury requiring off-site medical attention or hospitalization;

(i) Physical assaults of foster parent or staff by children that result in injury requiring off-site medical attention or hospitalization;

(j) Any medication that is given incorrectly and requires off-site medical attention; or

(k) Serious property damage or other significant licensing requirement that is a safety hazard and is not immediately corrected or may compromise the continuing health and safety of children.

(3) You or your staff must report the following incidents as soon as possible or in no instance later than forty-eight hours, to the child's social worker, if the child is in the department's custody or to the case manager if placed with a child-placing agency program:

(a) Suicidal/homicidal ideations, gestures, or attempts that do not require professional medical treatment;

(b) Unexpected health problems outside the anticipated range of reactions caused by medications, that do not require professional medical attention;

(c) Any incident of medication incorrectly administered;

(d) Physical assaults between two or more children that result in injury but did not require professional medical attention;

(e) (~~Runaways~~;

~~(f)~~) Any emergent medical or psychiatric care that requires off-site attention; and

(~~(g)~~) (f) Use of prohibited physical restraints for behavior management as described in WAC 388-148-0485.

(4) Programs providing care to medically fragile children who have nursing care staff on duty may document the incidents described in WAC 388-148-0120 (3) (b) (c) in the facility daily logs, rather than contacting the social worker or case manager, if agreed to in the child's ISSP.

#### NEW SECTION

**WAC 388-148-0123 What are my reporting responsibilities when a child is missing from care?** (1) As soon as you have reason to know a child in your care is missing as defined in WAC 388-148-0010, or has refused to return to or remain in your care, or whose whereabouts are otherwise unknown, you or your staff are required to notify the following:

(a) The child's assigned social worker, if the child is in the department's custody;

(b) CA intake, if the social worker is not available or it is after normal business hours; or

(c) The case manager if the child is placed by a child-placing agency program.

(2) You or your staff are required to contact local law enforcement if the child is missing as defined in WAC 388-148-0010 within six hours. However, if one or more of the following factors are present, you must contact law enforcement immediately:

(a) The child has been, or is believed to have been, taken from placement as defined in WAC 388-148-0010;

(b) The child has been, or is believed to have been, lured from placement or to have left placement under circumstances that indicate the child may be at risk of physical or sexual assault or exploitation;

(c) The child is age thirteen or younger;

(d) The child has one or more physical or mental health conditions that if not treated daily will place the child at severe risks;

(e) The child is pregnant or parenting and the infant/child is believed to be with him or her;

(f) The child has severe emotional problems (e.g., suicidal ideations) that if not treated will place the child at severe risk;

(g) The child has a developmental disability that impairs the child's ability to care for him/herself;

(h) The child has a serious alcohol and/or substance abuse problem; or

(i) The child is at risk due to circumstances unique to that child.

After contacting local law enforcement, the Washington State Patrol's (WSP) Missing Children Clearinghouse must also be contacted and informed that the child is missing from care. The telephone number for the Clearinghouse is 1 (800) 543-5678.

(3) If the child leaves school or has an unauthorized absence from school, the caregiver should consult with the social worker to assess the situation and determine when law enforcement should be called. If any of the factors listed in subsections (2)(a) through (h) of this section are present, the caregiver and the social worker may decide it is appropriate to delay notification to law enforcement for up to four hours after the end of the school day to give the child the opportunity to return on their own.

(4) The caregiver will provide the following information to law enforcement and to the social worker when making a missing child report, if available:

(a) When the child left;

(b) Where the child left from;

(c) What the child was wearing;

(d) Any known behaviors or interactions that may have precipitated the child's departure;

(e) Any possible places the child may go to;

(f) Any special physical or mental health conditions or medications that affect the child's safety;

(g) Any known companions who may be aware of and involved in the child's absence;

(h) Other professionals, relatives, significant adults or peers who may know where the child would go; and

(i) A recent photo of the child.



(5) The caregiver should obtain the number of the missing person report and provide that number to CA staff.